

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

MELANIE C. TUNSTALL,

Plaintiff,

v.

THE CITY OF OMAHA, NEBRASKA;

Defendant.

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NO.: 8:05CV564

AMENDED COMPLAINT  
FOR DAMAGES

**INTRODUCTION**

This is a civil action seeking damages against the Defendant for negligent acts of its employee pursuant to the Nebraska Political Subdivision Tort Claims Act, Neb. Rev. Stat. §13-901 et seq. (1997 Reissue).

**I. PARTIES**

1. Plaintiff, Melanie C. Tunstall, is, and at all times mentioned was, a resident of the City of Omaha, Douglas County, State of Nebraska.
2. Defendant, the City of Omaha, is a municipal corporation, organized under the laws of the State of Nebraska.

**II. JURISDICTION**

3. This Court has discretion to exercise pendent jurisdiction over Plaintiff's claims brought under Nebraska law and specifically under the Political Subdivision Tort Claims Act because all the claims brought by Plaintiff derived from a common nucleus of operative fact as those stated in Plaintiff's Complaint and should be tried in one judicial proceeding.
4. Venue is proper as the acts complained of in this Complaint occurred in Douglas County, Nebraska, and the Defendants are residents of Douglas County, Nebraska.

### **III. STATEMENT OF FACTS**

5. At all times relevant to this action, Christopher Hallgren was a duly appointed and acting police officer employed by the City of Omaha Police Department. As such, Christopher Hallgren acted as an agent of the City of Omaha.
6. On or about December 24, 2004, at approximately 5:15 P.M., Police Officer Christopher Hallgren issued a parking citation to a vehicle parked near or in front of the residence located at 3217 California Street in the city of Omaha, Douglas County, Nebraska, for parking in a marked handicapped-parking space.
7. The vehicle which received the parking ticket citation belonged to the Plaintiff, Melanie C. Tunstall, who was inside the residence at 3217 California Street in the city of Omaha, Douglas County, Nebraska.
8. Inside the residence, the Plaintiff was notified of the ticket, left the residence, and approached Defendant Hallgren to discuss the parking ticket.
9. Plaintiff advised Hallgren that she had been unaware of the handicapped parking sign as it was new to the area and that she was not a resident, and asked him to discard the ticket on account that it was Christmas Eve. Hallgren refused to discard the ticket.
10. Plaintiff returned inside the residence. Hallgren followed Plaintiff to the residence's front door and waited for her to exit, positioning himself at the foot of the stairs leading to the front door's alcove.
11. When Plaintiff emerged from the residence with her car keys and stood at the top of the stairs leading to the front door, Hallgren took her into his physical custody and control.
12. While Hallgren was exercising physical custody and control over Plaintiff, she fell down the stairs. Hallgren negligently failed to properly protect her from such a fall.

13. Plaintiff was taken to the hospital where she was diagnosed with a broken ankle which occurred when she fell down the stairs and as a direct and proximate result of Hallgren's negligence.
14. Plaintiff suffered and continues to suffer numerous painful and continuing injuries requiring medical treatment and further causing medical expenses the total of which has not been calculated.
15. Defendant, the City of Omaha, as the employer of Christopher Hallgren, is responsible for his negligence and the proximately resulting damages to Plaintiff.
16. On March 3, 2005, the City received a formal written demand and notice of claim filed by the Plaintiff. Over six (6) months have elapsed without the City making an offer or settling this claim. Accordingly, pursuant to the Political Subdivision Tort Claims Act, the Plaintiff exercised her right to withdraw the claim from the City. This written withdrawal of claim from the City was tendered on December 23, 2005.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Melanie C. Tunstall, demands judgment against the Defendant the City of Omaha for compensatory damages Plaintiff has suffered and for such other relief as the Court deems just and equitable.

MELANIE C. TUNSTALL, Plaintiff

BY: s/Joseph Howard

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